

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	Criminal No. 1:04-CR-00020
v.	:	1:05-CR-00100
	:	(Judge Rambo)
TYRONE ANTHONY POOLE	:	(Electronically Filed)

**MOTION TO REDUCE SENTENCE**  
**RE: AMENDMENT 750**  
**CRACK COCAINE OFFENSE - 18:3582**

AND NOW, comes Tyrone Poole, by his attorney Lori J. Ulrich of the Federal Public Defender's Office, and files this Motion to Reduce Sentence Re: Amendment 750 Crack Cocaine Offense - 18:3582, averring as follows:

1. On February 24, 2005, the defendant, Tyrone Poole, pleaded guilty to a Superseding Information, charging him with misprision of a felony (robbery and murder), in violation of 18 U.S.C. § 4.
2. On December 12, 2005, Mr. Poole pleaded guilty to a two-count Superseding Information, charging him with two counts of use of a communication facility to facilitate a drug trafficking offense, in violation of 21 U.S.C. § 843(b).
3. The total maximum penalty for the three convictions was 132 months.

4. The Court ordered the preparation of a presentence report.
5. The 2005 edition of the United States Sentencing Guidelines Manual was used to calculate Mr. Poole's sentencing guideline range.
6. The presentence report provides that Mr. Poole was accountable for 69 grams of crack cocaine and 81.4 grams of cocaine hydrochloride. 69 grams of crack cocaine equaled 1,380 kilograms of marijuana (1 gm = 20 kg), and 81.4 grams of cocaine hydrochloride equaled 16.28 kilograms of marijuana (1 gm = 200 gms). Therefore, the base offense level for an offense involving more than 1,000 kilograms but less than 3000 kilograms of marijuana was 32. Mr. Poole did not receive any other enhancements for the drug offense.
7. The total offense level for the offense of misprision of a felony was 21.
8. Mr. Poole did not receive any reduction for acceptance of responsibility.
9. Mr. Poole did not receive a multiple count enhancement, so his total offense level was 32.
10. Mr. Poole was assigned a criminal history category of IV.
11. A criminal history category of IV and a total offense level of 32 resulted in a guideline imprisonment range of 132 months, the statutory maximum.

12. On March 23, 2006, this Honorable Court sentenced Mr. Poole to a term of imprisonment of 132 months, 36 months for the offense of misprision of a felony (1:04-CR-00020) and 48 months for each of the two offenses of use of a communication facility to facilitate the distribution and possession with the intent to distribute cocaine and crack cocaine (1:05-CR-00100), to run consecutively.

13. Mr. Poole is serving this sentence at the Federal Correctional Institution at Allenwood, Pennsylvania.

14. Mr. Poole's projected release date is September 27, 2014.

15. The United States Sentencing Guidelines Manual effective November 1, 2011, includes the permanent amendments implementing the Fair Sentencing Act.

16. On June 30, 2011, the United States Sentencing Commission voted to apply the amendments implementing the Fair Sentencing Act retroactively, effective November 1, 2011.

17. Consequently, the United States Sentencing Commission amended U.S.S.G. § 1B1.10 to include Amendment 750 (Parts A and C only) as an amendment that may be considered for retroactive application, effective November 1, 2011.

18. Pursuant to 18 U.S.C. § 3582(c)(2), "in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission . . . upon motion of the defendant . . . the court may reduce the term of imprisonment, after considering the

factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with the applicable policy statements issued by the Sentencing Commission.”

19. Under the retroactive application of Amendment 750 (Parts A and C only), 69 grams of crack cocaine converts to 246.3 kilograms of marijuana (1 gm = 3,571 gms) and 81.4 grams of cocaine converts to 16.28 kilograms of marijuana.

Therefore, the total amount of marijuana is 263 kilograms.

20. The base offense level for an offense involving at least 100 kilograms grams but less than 400 kilograms of cocaine is 26.

21. The offense level for misprision remains 21.

22. Pursuant to the multiple count enhancement, USSG § 3D1.4, Mr. Poole gets one unit for the drug offense and one-half unit for the misprision offense. This adds one level to the offense level of 26, for a total offense level of 27.

23. There no are adjustments that apply.

24. An offense level of 27 and a criminal history category of IV result in an advisory guideline imprisonment range of 100 to 125 months.

25. Because Mr. Poole had been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission, he moves this Honorable Court to reduce the term of imprisonment

in accordance with 18 U.S.C. § 3582(c)(2) and sentence him to 100 months, the bottom of the applicable guideline range.

26. While incarcerated, Mr. Poole participated in several educational programs, earning his Secondary School Diploma, and obtaining certificates in Electrical Occupations and Plumbing. *See* Certificates attached.

27. Undersigned counsel understands that the government will, by separate pleading, more fully explain its position.

WHEREFORE, it is respectfully requested that this Honorable Court grant the foregoing Motion to Reduce Sentence Re: Amendment 750 Crack Cocaine Offense - 18:3582.

Respectfully submitted,

Date: October 3, 2011

/s/ Lori J. Ulrich

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## **CERTIFICATE OF SERVICE**

I, Lori J. Ulrich of the Federal Public Defender's Office, do hereby certify that I served a copy of the foregoing **Motion to Reduce Sentence Re: Amendment 750 Crack Cocaine Offense - 18:3582**, via Electronic Case Filing, and/or by placing a copy in the United States mail, first class in Harrisburg, Pennsylvania, and/or by hand delivery, addressed to the following:

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Date: October 3, 2011

/s/ Lori J. Ulrich

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